



*United States Trustee
District of New York*

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M E M O R A N D U M

**TO: BANKRUPTCY PRACTITIONERS
AND INTERESTED PARTIES**

**FROM: CHRISTOPHER K. REED,
ASSISTANT U.S. TRUSTEE
REGION 2/BUFFALO, NY**

DATE: AUGUST 28, 1992

**SUBJECT: NOTICE TO AND SERVICE UPON THE
UNITED STATES TRUSTEE FOR THE WDNY**

In August of 1987, the Office of the United States Trustee ("UST") assumed substantial administrative responsibility over bankruptcy cases filed in the WDNY. At that time, a system of UST "pre-review" of exparte motions and applications was established. This cumbersome "pre-review" system was necessitated by a lack of procedural guidance in the Bankruptcy Rules.

The 1991 Amendments to the Federal Rules of Bankruptcy Procedure fully reflect the existence of a national UST program and provide appropriate procedures for notice to and service upon the UST (as detailed below). EFFECTIVE IMMEDIATELY, IT IS NO LONGER NECESSARY TO OBTAIN UST APPROVAL; REVIEW; OR "NO OBJECTION," PRIOR TO SUBMISSION OF EXPARTE APPLICATIONS, MOTIONS OR STIPULATIONS TO THE COURT.

The Federal Rules of Bankruptcy Procedure provide, with very few exceptions, for notice, service or transmission to the UST of all pleadings, motions, objections and similar documents. While this memo will set forth limited exceptions, the best rule of thumb may be, "when in doubt, serve the UST."

The following table comprises Bankruptcy Rules which specifically require service upon the UST:

<u>RULE</u>	<u>PLEADING, DOCUMENT OR SUBJECT</u>
1007(a)(4),(c).....	Extension of time to file list or schedules
1014.....	Change of Venue
1019(1)(B).....	Extension of time to file notice of intention
1019(5).....	Post-conversion final report and account
2001(a).....	Appointment of interim trustee in involuntary case
2007(a),(b)(2).....	Review of Creditors' Committee Appointment; Proxies
2008.....	Selection of Trustee
2014(a).....	Application for order approving employment of professionals
2015(a)(1).....	Inventory of Debtor's property
2015(a)(5).....	Statement of quarterly disbursements and fee (Chapter 11)
2015(d).....	Chapter 11 Annual Reports
2016(a).....	Application for Compensation or Reimbursement
2016(b).....	Disclosure of Compensation Paid or Promised to Attorney for Debtor
3017(a),(d).....	Chapter 11 Plan, Disclosure Statement and Objections
3020.....	Chapter 11 Objection to Confirmation
5005(b).....	Transmittal to UST and <u>Proof of Transmittal</u>
6002(a).....	Accounting by <u>Custodian</u>
6004(d),(f).....	Sale of Property, Auctioneer's Statement
6006(c).....	Proceeding to Require Trustee to Assume/Reject
6007(a),(c).....	Abandonment, Objection
7004(b)(5),(10).....	Summons & Complaint-Service upon UST
7041.....	Dismissal of Objection to Discharge
9019(a).....	Compromise of Settlement

In addition to the above Rules, Bankruptcy Rule 9034 (set forth, in full, below) generally covers service upon the UST.

**TRANSMITTAL OF PLEADINGS, MOTION PAPERS,
OBJECTIONS, AND OTHER PAPERS TO THE
UNITED STATES TRUSTEE**

Unless the United States trustee requests otherwise or the case is a chapter 9 municipality case, any entity that files a pleading, motion, objection, or similar paper relating to any of the following matters shall transmit a copy thereof to the United States trustee within the time required by these rules for service of the paper:

(a) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business;

(b) the approval of the compromise or settlement of a controversy;

(c) the dismissal or conversion of a case to another chapter;

(d) the employment of professional persons;

(e) an application for compensation or reimbursement of expenses;

(f) a motion for, or approval of an agreement relating to, the use of cash collateral or authority to obtain credit;

(g) the appointment of a trustee or examiner in a chapter 11 reorganization case;

(h) the approval of a disclosure statement;

(i) the confirmation of a plan;

(j) an objection to, or waiver or revocation of, the debtor's discharge;

(k) any other matter in which the United States trustee requests copies of filed papers or the court orders copies transmitted to the United States trustee.

PLEASE NOTE: Bankruptcy Rule 5005(b) requires an entity transmitting a document to the UST to, "promptly file as proof of such transmittal a verified statement identifying the paper and stating the date on which it was transmitted to the United States trustee."

The following Bankruptcy Rules provide for transmission by the Clerk to the UST and, therefore do not require separate service upon the UST:

RULE OF BANKRUPTCY PROCEDURE

1007(1)
1009(c)
1017(d),(e)
1019(5),(6)
2002(k)
2013(b)
3015(e)
4004(a)
8004
8016(b)
9022

Parties should not transmit copies of proof of claim forms to the UST. Parties need only transmit the original summons and complaint in adversary proceedings unless the UST enters a notice of appearance.

The UST will continue to "pre-review" applications for orders approving the employment of professionals in Chapter 11 cases. Please submit the original and one copy of such applications to the appropriate UST office. If our office has no objection, we will forward the original to the Bankruptcy Court for review and signature. If the UST has objections, we will return the application to D.I.P counsel. Anyone desiring a conformed copy from the Court must provide an additional copy (original + 2) and a postpaid, self-addressed envelope.

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Service upon the UST for the Western District of New York shall be made at the following addresses:

Buffalo Cases:

Office of the United States Trustee
42 Delaware Avenue, Suite 100
Buffalo, New York 14202

Rochester Cases:

Office of the United States Trustee
100 State Street
Rochester, New York 14614

CKR/ccO